THE HONORABLE RICHARD A. JONES 1 2 3 4 5 UNITED STATES DISTRICT COURT 6 WESTERN DISTRICT OF WASHINGTON AT SEATTLE 7 8 DEBORAH H. BEATON, 9 NO. 11-CV-0872-RAJ Plaintiff. v. 10 **DECLARATION OF BARBARA** L. BOLLERO IN SUPPORT OF JPMORGAN CHASE BANK N.A., 11 **DEFENDANT CHASE'S REPLY** NORTHWEST TRUSTEE SERVICES, INC. TO PLAINTIFF'S RESPONSE IN 12 OPPOSITION TO CHASE'S FRCP Defendant. 12(b)(6) MOTION TO DISMISS 13 PLAINTIFF'S [FIRST] AMENDED **COMPLAINT FOR DAMAGES** 14 **RE-NOTED DATE:** February 10, 2012 15 16 I, Barbara L. Bollero, declare and state as follows: 17 1. I am an attorney at law duly licensed to practice before all the Courts of the 18 State of Washington, and am one of the attorneys of record herein for Defendant JPMorgan 19 Chase Bank, N.A. ("Chase"). I have personal knowledge of the facts attested herein and, if 20 called to testify to them, could and would do so competently. 21 22 DECLARATION OF BARBARA BISHOP WHITE, MARSHALL & WEIBEL, P.S. L. BOLLERO IN SUPPORT OF 720 OLIVE WAY, SUITE 1201 23 SEATTLE, WASHINGTON 98101-1801 DEFENDANT CHASE'S REPLY 206/622-5306 FAX: 206/622-0354 TO PLAINTIFF'S RESPONSE IN 24 OPPOSITION TO CHASE'S FRCP 12(b)(6) MOTION TO DISMISS 25 PLAINTIFF'S [FIRST] AMENDED COMPLAINT FOR DAMAGES - 1 NO. 11-CV-0872-RAJ

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- 2. On or about October 7, 2011, at the same time as she filed her [First] Amended Complaint [Dkt. 34], Ms. Beaton also filed a pleading captioned "Plaintiff's **Proposed** Plan for Discovery and Depositions" [Dkt. 35 (emphasis in original)]. The first sentence of the pleading states, "Plaintiff hereby submits the following proposal for the substance of the discovery and depositions as required by the Court's order and FRCP 26f." (Emphasis supplied.) The document does not specify a reasonable time, place, and manner for any document inspection, as required by Fed. R. Civ. P. 34(b)(1)(B).
- 3. On receipt and after brief review of the pleading when it was initially served in October of 2011, I understood that it was a statement, as captioned and referenced therein, of Plaintiff's intended future discovery plan under Fed. R. Civ. P. 26(f)(3), and was not itself intended to serve as written discovery propounded to Chase. Accordingly, I did not prepare Chase's responses to "Plaintiff's Proposed Plan for Discovery and Depositions" [Dkt. 35 (emphasis in original)].
- 4. On February 6, 2012, immediately after reviewing Plaintiff's Opposition pleading [Dkt. 46], I left a voicemail message for Heidi Buck, counsel for Chase's co-Defendant, Northwest Trustee Services, Inc., inquiring whether she understood and/or believed that Plaintiff had propounded discovery to her client and Chase. I spoke by telephone with Ms. Buck shortly thereafter. In that conversation she advised me that she, too, had independently formed the same understanding that "Plaintiff's **Proposed** Plan for Discovery and Depositions" did not constitute discovery propounded by Plaintiff to her client and Chase.

BISHOP WHITE, MARSHALL & WEIBEL, P.S.

720 OLIVE WAY, SUITE 1201

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22 DECLARATION OF BARBARA L. BOLLERO IN SUPPORT OF DEFENDANT CHASE'S REPLY TO PLAINTIFF'S RESPONSE IN

> OPPOSITION TO CHASE'S FRCP 12(b)(6) MOTION TO DISMISS

PLAINTIFF'S [FIRST] AMENDED COMPLAINT FOR DAMAGES - 2

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1	5. It was not until I first reviewed Plaintiff's Opposition [Dkt. 46] to Chase's
2	dismissal motion on February 6, 2012, that I first learned Plaintiff believes Chase has
3	failed to respond to discovery. In the four months since that pleading was filed, Plaintiff
4	never communicated with me concerning either an expectation that responses were
5	required, that Chase had failed to respond, or that responses were past due.
6	I declare under the penalty of perjury under the laws of the State of Washington and
7	the United States of America that the foregoing is true and correct.
8	Dated this 7 th day of February, 2012, at Seattle, Washington.
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10	/s/ Barbara L. Bollero Barbara L. Bollero, WSBA #28906
11	BISHOP, WHITE, MARSHALL & WEIBEL, P.S. 720 Olive Way, Suite 1201
12	Seattle, WA 98101 (206) 622-5306, Ext.5918
13	Email: bbollero@bwmlegal.com
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22	DECLARATION OF BARBARA L. BOLLERO IN SUPPORT OF BISHOP WHITE, MARSHALL & WEIBEL, P.S. 720 OLIVE WAY, SUITE 1201
23	DEFENDANT CHASE'S REPLY TO PLAINTIFF'S RESPONSE IN SEATTLE, WASHINGTON 98101-1801 206/622-5306 FAX: 206/622-0354
24	OPPOSITION TO CHASE'S FRCP 12(b)(6) MOTION TO DISMISS
25	PLAINTIFF'S [FIRST] AMENDED COMPLAINT FOR DAMAGES - 3

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